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# Heine to File Appeal in Slander Suit

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A federal judge's order dismissing a \$110,000 lawsuit against a government secret agent will be appealed to higher courts, attorneys here indicated last night.

Yesterday, Federal Judge Roszel C. Thomsen issued an order—mainly designed to protect government secrets—ending the slander case against a sometime agent of the Central Intelligence Agency.

The agent, Juri Raus, Hyattsville, had been sued two years ago by Eerik Heine of Rexdale, Ontario, Canada.

Heine, a former leader of Estonians who had emigrated to this country from their now-occupied homeland, accused Raus, another former Estonian leader, of calling Heine a Communist and a Soviet agent.

Thomsen's ruling ends the Heine lawsuit unless his attorneys are able to persuade a higher court to reverse the decision.

## Plan to Appeal

Last night, Ernest S. Raskauskas and Robert J. Stanford of Washington, Heine's lawyers, said they would promptly file an appeal with the 4th U.S. Court of Appeals in Richmond. The grounds for their appeal will be determined after they studied Thomsen's decision, they said.

They indicated they would go directly to the higher tribunal without first asking Thomsen to reconsider.

Reached by telephone at his Ontario home, Heine said he was "disappointed" in the judge's ruling, but vowed to appeal it. So far, he said, his

case has cost him between \$7,000 and \$8,000.

Thomsen ruled against Heine on all aspects of his lawyers' arguments. In the main, the decision reflected a worry that if the Heine lawsuit were permitted to go to a trial, it might bring out more government secrets than the CIA thinks could be safely revealed.

The case has been heard only by the judge. If he had decided against dismissing it, it would have gone to trial before a jury.

The object of a trial would be to decide if Raus had called Heine a Communist and a Soviet agent, whether such charges are true or false, and whether Raus should be punished if the jury decided in Heine's favor.

## Judge's Ruling

But the judge ruled, "A trial would not resolve the question of the truth or falsity of the charges, because the court would still be required to recognize the privilege asserted by the United States (government)."

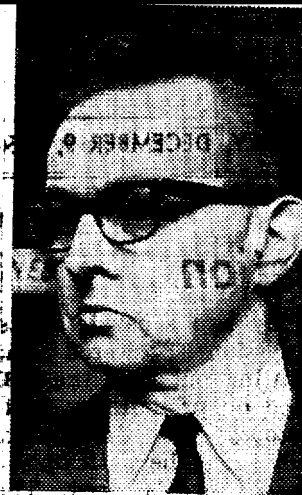
The government, through the CIA, had claimed it has a "privilege against disclosing state secrets."

That privilege, Thomsen said, was based on a federal law designed to safeguard government secrets. It was also based on the authority of the CIA and its director to protect "intelligence sources and methods from unauthorized disclosure."

Even while claiming the privilege, the CIA had several times filed affidavits in the Heine case giving data about its relationship with Raus and his role in making accusations against Heine.

The CIA admitted that Raus was an employee of the agency and had been given orders in 1964 to spread the word that Heine was a "dispatched Soviet intelligence operative, a KGB agent." KGB is the Soviet secret policy agency.

Raus' job of discrediting Heine followed Heine's gain of popularity among Estonian emigrants in this country and Canada. Heine had been making a tour to describe to these emigrants his role as a vigorous anti-Soviet "freedom fighter."



EERIK HEINE

violate the secrecy agreement (that he made with the CIA in 1963), but might also violate the statute prohibiting unlawful disclosure of confidential information respecting the national defense."

Besides relying on the secret-protecting "privilege" of the CIA, Thomsen also based his decision on a privilege that Raus had claimed.

That was an "absolute privilege" against defamation lawsuits like Heine's. The privilege extends to government officials for acts done in carrying out their official jobs, the judge ruled. This privilege was upheld by the Supreme Court in 1959, he concluded.

## Cites Dilemma

Raus is entitled to the privilege, Thomsen held, because he was "acting within the scope of his employment by an agency of the United States." The judge turned aside several arguments by Heine's lawyers that Raus did not hold the kind of government post that entitles an official to the privilege against slander suits.

Thomsen also held that the CIA did not need to disclose the name of the person who gave Raus the specific orders to discredit Heine.

The judge said that he was faced by a "dilemma," and that this "dilemma" would still be present if the case went to trial.

That dilemma, Thomsen said, was caused by the fact that Raus, under his own promise of secrecy and under the CIA's refusal to let him say more about his role, would be "precluded from testifying to facts and from calling witnesses who might establish the truth of the alleged defamatory remarks."

That being so, the judge said, it was a case of choosing between requiring Raus "to stand weaponless before his adversary," or to deny Heine "the opportunity to attempt to vindicate himself in court."

Since, the judge said, "no way to avoid choosing between two evils has been suggested or discovered," he was forced to choose to deny Heine the chance to press his lawsuit.

With Heine apparently moving toward leadership in the Estonian community, the CIA put Raus to work, according to one of its affidavits, in order to protect "the integrity of the agency's foreign intelligence sources."

## "Valuable Source"

Yesterday, Thomsen found that "emigre groups from nations behind the Iron Curtain would be a valuable source of intelligence information as to what goes on in their old homeland."

He added that "activities by the CIA to protect its foreign intelligence sources located in the United States are within the power granted by Congress to the CIA."

Thomsen said he had examined some secret papers submitted to him by the CIA to help prove that CIA had authority to do what it had done. However, the judge said he had not relied on them in deciding that CIA did have the authority.

After the CIA made its disclosures about Raus' role, it refused pleas by Heine's attorneys that it make more data available on that subject. It said it "would be contrary to the security interests" to say any more.

The federal judge said that "if Raus makes further disclosures without the approval of the agency, he would not only